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In re Application of
PARKER et al.
U.S. Application No. 09/762,562
PCT No.: PCT/US98/16521
Int. Filing Date: 10 August 1998
Priority Date: None
Attorney Docket No.: 381-23-014
For: ELECTRIC ARC MONITORING
SYSTEM

DECISION ON PETITION

This is a decision on applicants' "Renewed Submission under 37 CFR 1.42" filed 31 May 2002.

BACKGROUND

On 10 August 1998, applicants filed international application PCT/US98/16521 which claimed no priority date and designated the United States. A proper Demand was filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the international filing date, or at midnight on 10 February 2001.

On 09 February 2001, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and international application.

On 29 March 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.492(a) and (b).

On 29 August 2001, applicants filed: "Transmittal of Missing Requirements under 35 U.S.C. 371"; a declarations and power of attorneys signed by three of the four joint inventors; a petition under 37 CFR 1.47(a) and the requisite fee; and a petition for a three-month extension of time and the requisite fee. The petition was dismissed in a decision dated 11 December 2001.

On 13 February 2002, applicant filed "Withdrawal of Petition under 37 CFR 1.47(a) and Submission of Declaration under 37 CFR 1.42." The petition under 37 CFR 1.42 was dismissed in a decision dated 27 March 2002 because the declaration did not include the citizenship of legal representative.

On 31 May 2002, applicants filed the present renewed submission under 37 CFR 1.42 stating that the declaration filed 13 February 2002 included the citizenship of the legal representative.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

A review of the application file reveals that the declaration filed 29 August 2001 is executed by Lislotte Benoit as the "legal representative" of the deceased inventor Luc Benoit, and the declaration filed 13 February 2002 is executed by Lillian Margaret Ham as the "legal representative" of the deceased inventor, Howard M. Ham. The declarations filed are acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 13 February 2002.

CONCLUSION

The papers filed under 37 CFR 1.42 are ACCEPTED.

The Decision mailed 27 March 2002 is hereby VACATED.

The application has an international filing date of 10 August 1998, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **13 February 2002**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.



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